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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,848	10/17/2005	Vernon J. Donnelly	5173-0010WOUS	4413
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O'Shea Getz P.C. 1500 MAIN ST. SUITE 912 SPRINGFIELD, MA 01115			EXAMINER LITHGOW, THOMAS M	
			ART UNIT	PAPER NUMBER
			1797	
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			12/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,848	Applicant(s) DONNELLY ET AL.	
	Examiner Thomas M. Lithgow	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 19-37, 40-52, 62 and 63 is/are pending in the application.
- 4a) Of the above claim(s) 19-32, 40-43, 45-47, 50, 51, 62 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 33-37, 44, 48, 49 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4-5, 8-9, 12-13, 33, 44 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanner (US 6103114). Tanner '114 discloses a filter cartridge 50 having mounting lugs 57 (fig. 1) at the upper end of the cartridge. As a cylinder the cartridge has two axes which are equal so that the major axis would equal the minor axis. The cartridge has a circular seal surface at seal 52 with the lugs 57 being spaced therefrom in an "opposed" manner. Applicant amended claim 4 to include the phrase "and an elongate direction in a horizontal cross-section" and infers that this language has a major axis and a minor axis. This is not how "elongated" is interpreted by the examiner. While "elongated" may include such shapes as applicants, it would appear any two dimensional object (cross section) is elongate in the directions that define the shape. This would include shapes such as a circle. The rejection will be maintained on this basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tanner '114 alone or further in view of Robertson (US 5811004). Tanner '114 discloses a filter cartridge 50 having mounting lugs 57 (fig. 1) at the upper end of the cartridge. As a cylinder the cartridge has two axes which are equal so that the major axis would equal the minor axis. In any event, Robertson '004 discloses the use of a pitcher/carafe gravity fed filtration cartridge, similar if not identical in function to that of Tanner '114 and applicant's invention, in which a filter cartridge may have a circular cross section or oval or polygonal [col. 5, 55+]. Specifically the oval shape would yield a major axis/minor axis as recited in the claims. Applicant asserts there is no basis to change the shape of Tanner's round shaped filter cartridge. Additionally, even if modified by Robertson '004 to be oval shaped, there is no motivation to place the lugs on the major axis. In regard to applicant's

assertion of there is no motivation to combine Tanner '114 with Robertson's teaching of employing different shape filter cartridges. This appears quite straight forward. Both Tanner's and Robertson's filters are cartridge type gravity based filter units for a water filter carafe. Both filters contain the same filter material and both are suspended between an upper prefilter chamber that holds raw faucet water and a lower receiver that captures the gravity driven filtered water. The suggestion of different shaped cartridges as set forth by Robertson '004 [5, 55+] would appear to be directly applicable to similarly situated filters that perform the same function, in essentially the same way, to achieve the same result. As such, the modification of Tanner '114 to the shape taught by Robertson '004 would have been within the ordinary skill of the art at the time of the invention. In regard to the location of the lugs, it is known that locating the lugs as far from the axis of rotation results in a smaller angle or rotation of the filter while maximizing the distance traveled by the lugs. Thus one can reduce the typical one quarter turn bayonet (like Tanner's) to a 10-30 degree turn. To so mount the lugs on Tanner would have been obvious to one of ordinary skill in the art.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner '114 as applied to claim 4 and further in view of Robertson '004. Robertson '004 teaches the use of Oval shaped cross sections [5, 55] or which an ellipse is equivalent.

6. Claims 7, and 10-11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner '114 as applied to claim 4 above, and further in view of Magnusson (USPGP 2002/0036162). The use of planar bayonet lugs which are chamfered and extend about the filter 10 (see fig. 1/cover) cartridge more than 15 degrees is taught by Magnusson '162. To so employ this known connection technique on the Tanner '114 cartridge would have been obvious to one of ordinary skill in the art.

7. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner '114 as applied to claim 4 above, and further in view of Brueggemann (US 5002665). Although not specifically shown, most gravity fed carafe filters such as Tanner '114 that employ a particulate filter media, usually at least a portion of which is activated carbon. This particulate media has to be retained in the cartridge during use and various screens/grilles having openings large enough to pass water but small enough to retain the particles are employed for this purpose. Brueggemann

'665 discloses the use of a snap in type retainer screen/grille 11 which functions to retain particulate media while passing the water. To employ such a known structure (snap in screen 11) for its intended purpose in the Tanner '114 gravity flow filtration cartridge 50 would have been obvious to one of ordinary skill in the art.

8. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner '114 as applied to claim 4 above, and further in view of Huang (US 5873995). The use of a counter to indicate degree of use of a gravity fed carafe filter is taught by Huang '995 (see element 20). Using such a filter cartridge beyond its useful life is known to result in bacteria growth within the filter cartridge with adverse effects on the user's health.

Therefore the use of a counter to indicate end-of-life conditions for such a filter would have been obvious to one of ordinary skill in the art.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 48 above, and further in view of either one of Hembree (US 5525214) or Wadsworth (US 6123837). The use of a counter that resets upon removal/insertion of a new cartridge is taught by either one of Hembree '214 [3, 5+] or Wadsworth '837 [15, 1-4+]. To employ such a

feature allows simple resetting of the counter with minimal interaction from the consumer.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas M. Lithgow/

Primary Examiner, Art Unit 1797

Thomas M. Lithgow
Primary Examiner
Art Unit 1797

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